

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 784

Introduced by Assembly Member Weber

February 21, 2013

An act to ~~amend~~ add Section ~~12300~~ of 12331 to the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 784, as amended, Weber. In-Home Supportive ~~Services~~. *Services: provider health care benefits.*

Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization. *Under existing law, the state, a county, a public authority, a nonprofit consortium, or an IHSS recipient may be considered the employer of an IHSS provider.*

Existing federal law, the federal Patient Protection and Affordable Care Act (PPACA), enacts various health care coverage market reforms that take effect January 1, 2014. Among other things, PPACA imposes an assessment on certain employers who fail to offer to their full-time employees and their dependents the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan.

~~This bill would make a technical, nonsubstantive change to these provisions.~~ *establish an advisory committee on the impact of PPACA on health care benefits for providers of IHSS providers and would provide for the appointment of members to the committee by the Governor, the Speaker of the Assembly, and the Senate Committee on*

Rules, as specified. The bill would require the advisory committee to provide advice on the appropriate employer in the IHSS program to provide health care benefits to IHSS providers under PPACA.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 12331 is added to the Welfare and*
2 *Institutions Code, to read:*

3 12331. (a) *There shall be established a 13-member advisory*
4 *committee to assess the impact of the federal Patient Protection*
5 *and Affordable Care Act on health care benefits for in-home*
6 *supportive services providers. At least 50 percent of the*
7 *membership of the advisory committee shall be individuals who*
8 *are current or past users of personal assistance services paid for*
9 *through public or private funds or as recipients of in-home*
10 *supportive services.*

11 (1) *At least two members of the advisory committee shall be*
12 *current or former providers of in-home supportive services.*

13 (2) *Individuals who represent organizations that advocate for*
14 *people with disabilities or seniors may be appointed to the advisory*
15 *committee.*

16 (3) *Individuals from labor organizations that are designated*
17 *representatives of IHSS providers shall be appointed to the*
18 *advisory committee.*

19 (b) *The Governor shall appoint seven members, the Speaker of*
20 *the Assembly shall appoint three members, and the Senate*
21 *Committee on Rules shall appoint three members.*

22 (c) *Prior to appointment of the members to the advisory*
23 *committee, the Governor, the Speaker of the Assembly, and the*
24 *Senate Committee on Rules shall consult with labor organizations*
25 *and organizations that advocate for seniors and persons with*
26 *disabilities regarding these appointments.*

27 (d) *The advisory committee established pursuant to subdivision*
28 *(a) shall provide advice on the appropriate employer under the*
29 *In-Home Supportive Services program to provide health care*
30 *benefits to in-home supportive services providers under the Patient*
31 *Protection and Affordable Care Act.*

1 ~~SECTION 1. Section 12300 of the Welfare and Institutions Code~~
2 ~~is amended to read:~~

3 ~~12300. (a) The purpose of this article is to provide in every~~
4 ~~county in a manner consistent with this chapter and the annual~~
5 ~~Budget Act those supportive services identified in this section to~~
6 ~~aged, blind, or disabled persons, as defined under this chapter,~~
7 ~~who are unable to perform the services themselves and who cannot~~
8 ~~safely remain in their homes or abodes of their own choosing unless~~
9 ~~these services are provided.~~

10 ~~(b) Supportive services shall include domestic services and~~
11 ~~services related to domestic services, heavy cleaning, personal~~
12 ~~care services, accompaniment by a provider when needed during~~
13 ~~necessary travel to health-related appointments or to alternative~~
14 ~~resource sites, yard hazard abatement, protective supervision,~~
15 ~~teaching and demonstration directed at reducing the need for other~~
16 ~~supportive services, and paramedical services that make it possible~~
17 ~~for the recipient to establish and maintain an independent living~~
18 ~~arrangement.~~

19 ~~(c) Personal care services shall mean all of the following:~~

20 ~~(1) Assistance with ambulation.~~

21 ~~(2) Bathing, oral hygiene, and grooming.~~

22 ~~(3) Dressing.~~

23 ~~(4) Care and assistance with prosthetic devices.~~

24 ~~(5) Bowel, bladder, and menstrual care.~~

25 ~~(6) Repositioning, skin care, range of motion exercises, and~~
26 ~~transfers.~~

27 ~~(7) Feeding and assurance of adequate fluid intake.~~

28 ~~(8) Respiration.~~

29 ~~(9) Assistance with self-administration of medications.~~

30 ~~(d) Personal care services are available if these services are~~
31 ~~provided in the beneficiary's home and other locations as may be~~
32 ~~authorized by the director. Among the locations that may be~~
33 ~~authorized by the director under this paragraph is the recipient's~~
34 ~~place of employment if all of the following conditions are met:~~

35 ~~(1) The personal care services are limited to those that are~~
36 ~~currently authorized for a recipient in the recipient's home and~~
37 ~~those services are to be utilized by the recipient at the recipient's~~
38 ~~place of employment to enable the recipient to obtain, retain, or~~
39 ~~return to work. Authorized services utilized by the recipient at the~~
40 ~~recipient's place of employment shall be services that are relevant~~

~~1 and necessary in supporting and maintaining employment.
2 However, workplace services shall not be used to supplant any
3 reasonable accommodations required of an employer by the
4 Americans with Disabilities Act (42 U.S.C. Sec. 12101 et seq.;
5 ADA) or other legal entitlements or third-party obligations.~~

~~6 (2) The provision of personal care services at the recipient's
7 place of employment shall be authorized only to the extent that
8 the total hours utilized at the workplace are within the total personal
9 care services hours authorized for the recipient in the home.
10 Additional personal care services hours may not be authorized in
11 connection with a recipient's employment.~~

~~12 (e) Where supportive services are provided by a person having
13 the legal duty pursuant to the Family Code to provide for the care
14 of his or her child who is the recipient, the provider of supportive
15 services shall receive remuneration for the services only when the
16 provider leaves full-time employment or is prevented from
17 obtaining full-time employment because no other suitable provider
18 is available and where the inability of the provider to provide
19 supportive services may result in inappropriate placement or
20 inadequate care.~~

~~21 These providers shall be paid only for the following:~~

~~22 (1) Services related to domestic services.~~

~~23 (2) Personal care services.~~

~~24 (3) Accompaniment by a provider when needed during necessary
25 travel to health-related appointments or to alternative resource
26 sites.~~

~~27 (4) Protective supervision only as needed because of the
28 functional limitations of the child.~~

~~29 (5) Paramedical services.~~

~~30 (f) To encourage maximum voluntary services, so as to reduce
31 governmental costs, respite care shall also be provided. Respite
32 care is temporary or periodic service for eligible recipients to
33 relieve persons who are providing care without compensation.~~

~~34 (g) A person who is eligible to receive a service or services
35 under an approved federal waiver authorized pursuant to Section
36 14132.951, or a person who is eligible to receive a service or
37 services authorized pursuant to Section 14132.95, shall not be
38 eligible to receive the same service or services pursuant to this
39 article. In the event that the waiver authorized pursuant to Section
40 14132.951, as approved by the federal government, does not extend~~

1 eligibility to all persons otherwise eligible for services under this
2 article, or does not cover a service or particular services, or does
3 not cover the scope of a service that a person would otherwise be
4 eligible to receive under this article, those persons who are not
5 eligible for services, or for a particular service under the waiver
6 or Section 14132.95 shall be eligible for services under this article.

7 (h) (1) All services provided pursuant to this article shall be
8 equal in amount, scope, and duration to the same services provided
9 pursuant to Section 14132.95, including any adjustments that may
10 be made to those services pursuant to subdivision (e) of Section
11 14132.95.

12 (2) Notwithstanding any other provision of this article, the rate
13 of reimbursement for in-home supportive services provided through
14 any mode of service shall not exceed the rate of reimbursement
15 established under subdivision (j) of Section 14132.95 for the same
16 mode of service unless otherwise provided in the annual Budget
17 Act.

18 (3) The maximum number of hours available under Section
19 14132.95, Section 14132.951, and this section, combined, shall
20 be 283 hours per month. Any recipient of services under this article
21 shall receive no more than the applicable maximum specified in
22 Section 12303.4.